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9553.0060, subpart 1, item A, subitem (5).

142. The Department corrects the defect identified in part 9553.0060, subpart 1, item A, subitem (5) by making the following amendment:

On page 46, lines 23-30, delete the entire text of subitem (5).

Insert:

"(5) When a facility first enters the medical assistance program, the accumulated depreciation of any used capital assets owned by the facility prior to entering the medical assistance program must be calculated by using the useful life schedule in item B starting from the later of the date of completion of construction, or the time of purchase by the current owner. However, the amount of accumulated depreciation must not exceed 50% of the historical capital cost of the capital asset."

9553.0060, subpart 1, item C, subitem (3).

148. The Department agrees with Judge Lunde's recommendation to clarify part 9553.0060, subp. 1, item C, subitem (3), and makes the following amendment:

On page 48, line 35, after "safety orders", delete "of the local agency.", and insert "issued by an appropriate authority."

9553.0060, subpart 3, item H.

156. The Department corrects the defect identified by Judge Lunde in item H by withdrawing the proposed amendment.

9553.0060, subpart 5, Capital Debt Reduction Allowance.

159. and 160. The Department accepts the recommendation of Judge Lunde and amends subp. 5, item A, as follows:

On page 56, line 7, delete ".40" and insert ".25".
On page 56, line 8, delete ".30" and insert "Q".
On line 9, delete ".20" and insert "Q".

The Department notes for the record in Finding 159, on page 77 of Judge Lunde's report, in the Capital Debt Reduction Allowance Table, under the category, "Percentage of Equity in Capital Assets Used by the Facility", the second figure should be "20.01 to 40.00", not "20.00 to 20.00".

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9553.0060. subpart 5. item C.

161. The Department accepts the recommendation of Judge Lunde that item C be clarified and proposes the following amendment:

Delete the entire text of item C, on page 56, lines 15 to 19 and reletter items D to F in this subpart accordingly.

Above item G on page 57, insert a new item F which reads,

"If prepayment of a capital debt is prohibited by the funding source and the provider does not have any other capital debts, the portion of the capital debt reduction allowance which must be applied to reduce capital debt shall be applied first to the reduction of any working capital loans; the balance shall be deposited in the funded depreciation account. If prepayment of the capital debt results in the imposition of a prepayment penalty by the funding source, a portion of the capital debt reduction allowance which must be applied to reduce capital debt may be used to pay that penalty and the remainder may be used to reduce capital debt, or the entire portion of the capital debt reduction allowance to be used to reduce capital debt may be deposited in the funded depreciation account."

On page 56, line 31, after "in item", delete "D", and insert "C".
On page 57, line 4, after "with items," delete "D" and insert "C".
On page 49, line 25, after "depreciation account", insert "and any amount determined in subpart 5. item F which is not used to reduce capital debts or working capital loans".

9553.0080. subpart 6. Appeal Expenses.

172. The Department agrees with Judge Lunde's recommendation that part 9553.0080, subp. 6, item A be clarified and makes the following amendment:

On page 64, lines 27-28, after "A", delete the entire text of item A.

Insert, "the provider is successful on each disputed item appealed; and".

Because the appeals must specify each disputed item and because appeals are negotiated and litigated on an item by item basis, the department believes that a determination of the success of a provider's appeal must be considered on a fee per item basis and to the degree the provider was successful on an item.

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Further, I find the following technical amendments of a non-substantive nature are necessary to correct a clerical error, improve grammar and clarity, or conform to the required rule structure:

- A. In part 9553.0020, subp. 15, on page 3, line 3, delete the final sentence and insert "Only the 1983 publication will be used and will not change".
- B. In part 9553.0020, subp. 32, on page 5, line 26, after "guidelines", insert "1".
- C. In part 9553.0020, subp. 39, item C, on page 6, line 35, delete "facility" and insert "provider or provider group"; and on page 7, line 1, delete "facility", and insert "provider or provider group".
- D. In part 9553.0030, subp. 4, item B, subitem (3), on page 10, line 29, after "same operating", insert "cost".
- E. In part 9553.0035, subp. 14, item F, on page 21, line 35, delete "after" which is the last word of item F, and insert "thereafter".
- F. In part 9553.0050, subp. 1, item A, subitem (2), on page 40, line 5, after "maintenance,", insert "special.";

In unit (a), on page 40, line 8, after "maintenance,", insert "special."; and

In unit (c), on page 40, lines 17 and 20, after "maintenance,", insert "special." in both places.

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I hereby conclude that:

1. The Commissioner has statutory authority to promulgate these rules.
2. Proper notice of the Department's intent to adopt the proposed permanent rules was given as required by law, and all interested persons were afforded an opportunity to submit data and views on the proposed rules.
3. All modifications made to the proposed rule are supported by the data and views submitted to the Department and are not substantial changes.
4. The rules, as modified, are necessary and reasonable.
5. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.
6. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.
7. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

STATE OF MINNESOTA



Leonard W. Levine
COMMISSIONER OF HUMAN SERVICES

November 15, 1985

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